

2020 Jan-31 PM 03:11
U.S. DISTRICT COURT
N.D. OF ALABAMA

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF ALABAMA

EASTERN DIVISION

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Case No. 1:19-cv-01886-LCB-JEO

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ORDER OF DISMISSAL

The magistrate judge filed a report on December 20, 2019, recommending this action be dismissed without prejudice pursuant to the three strikes provision of 28 U.S.C. § 1915(g). (Doc. 4). The plaintiff filed objections and a “motion for relief sought against defendants.” (Docs. 5 & 6). The plaintiff repeats that he currently is in imminent danger of serious physical injury, but the only allegations supporting his position are the isolated events surrounding his October 8, 2019, arrest by Sylacauga, Alabama, police officers, (Doc. 5), and his assertion that the officers have falsely informed unknown “citizens” that he is a child molester and rapist, which he believes endangers his life, (Doc. 6). The plaintiff requests an order directing the officers to have no contact with him and placement in a witness protection program. *Id.* The plaintiff’s objections are **OVERRULED** as none of his allegations plausibly suggest that he currently is in imminent danger of serious physical injury. The plaintiff’s


motion for leave to proceed in forma pauperis (Doc. 2) and “Motion for Relief Sought Against Defendants” (Doc. 6) are DENIED.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, and the objections thereto, the magistrate judge’s report is hereby **ADOPTED** and the recommendation is **ACCEPTED**. Because the plaintiff failed to pay the filing and administrative fees of \$400.00 at the time he filed this complaint, the court **DISMISSES** this action **WITHOUT PREJUDICE**. The plaintiff may initiate a new civil rights action by completing and filing a new civil rights complaint form and paying the filing and administrative fees of \$400.00.

For information regarding the cost of appeal, see the attached notice.

The Clerk is **DIRECTED** to serve a copy of this order and a § 1983 complaint form on the plaintiff.

DONE and **ORDERED** January 31, 2020.



LILES C. BURKE
UNITED STATES DISTRICT JUDGE

United States Court of Appeals

Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

In Replying Give Number
of Case and Names of Parties

NOTICE TO PRISONERS CONCERNING CIVIL APPEALS

The Prison Litigation Reform Act of 1995 (effective April 26, 1996) now **REQUIRES** that all prisoners pay the Court's \$500 docket fee plus \$5 filing fee (for a total of \$505) when appealing any civil judgment.

If you wish to appeal in a civil case that Act now **requires** that upon filing a notice of appeal you *either*:

- (1) Pay the total \$505 fee to the clerk of the district court from which this case arose; *or*
- (2) arrange to have a prison official certify to the district court from which the appeal arose the average monthly deposits and balances in your prison account for each of the six months preceding the filing of a notice of appeal.

If you proceed with option (2) above, the Act requires that the district court order you to pay an *initial partial fee* of at least 20% of the **greater** of either the average monthly deposits or of the average monthly balances shown in your prison account. The remainder of the total \$505 fee will thereafter be deducted from your prison account each month that your account balance exceeds \$10. Each such monthly deduction shall equal 20% of all deposits to your prison account during the previous month, until the total \$505 fee is paid. (If your prison account statement shows that you cannot pay even the required *initial partial fee*, your appeal may nevertheless proceed, **BUT THE TOTAL \$505 FEE WILL BE ASSESSED AGAINST AND WILL BE DEDUCTED FROM FUTURE DEPOSITS TO YOUR PRISON ACCOUNT.**)

Fees are not refundable, regardless of outcome, and deductions from your prison account will continue until the total \$505 fee is collected, even if an appeal is unsuccessful.

David J. Smith
Clerk of Court

PLRA Notice

